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86 Chambers Street, 3rd Floor
New York, New York 10007

April 28, 2008

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U.S. DISTRICT COURT
S.D.N.Y.

BY HAND

Hon. Harold Baer
United States District Judge
United States Courthouse
500 Pearl Street, Room 2230
New York, New York 10007

Re: United States v. Heaven, et al., No. 07 Civ. 7958 (HB)

Dear Judge Baer:

I write respectfully on behalf of the Government to request a 90-day extension of all dates in the Scheduling Order in the above-referenced matter. The parties have been unable to conduct discovery due to the defendants' delay in retaining counsel in this matter. At the January 24, 2008 pre-trial conference before Your Honor, defendant Joseph Heaven advised the Government and the Court that he would be retaining counsel to represent him and defendant Heavenly Fabrics, Inc., the company of which he is president. Mr. Heaven advised the Government today that he will proceed *pro se* with regard to the Government's claims against him individually, and that Heavenly Fabrics, Inc., which is defunct, will default. Mr. Heaven has not yet filed a response to the complaint. Accordingly, the Government requests this 90-day extension to permit Mr. Heaven to respond to the complaint and the parties to complete discovery. Mr. Heaven has consented to this request. Enclosed please find a revised Scheduling Order for the Court's approval.

Thank you for considering this request.

Respectfully submitted,

MICHAEL J. GARCIA
United States Attorney

PIERRE G. ARMAND
Assistant United States Attorney
Tel. No.: (212) 637-2724
Fax. No.: (212) 637-2730

Encl. Joseph Heaven, et al.
cc: Fax: (212) 637-8244

Harold Baer, Jr., U.S.D.J.
Date: 4/29/08

I have advanced this trial and to January 24, 2008. There are several defendants who have not yet to be filed in the answers of their defense. Please let me know if you would like to proceed. Please return a copy to me for my file.

Endorsement:

I have advanced the trial month to January 2009. There are several blanks that have yet to be filled in when you determine the answers if they differ from my guesses please let me know otherwise this is the PTSO under which we will proceed. Please return a copy to me for my file.

United States of America
Plaintiff(s),

-against-

Joseph Heaven and Heavenly
Fabrics, Inc.

Defendant(s).

07 Civ. 7958 (HB)

**PROPOSED PRETRIAL
SCHEDULING ORDER**

APPEARANCES:

Plaintiff(s) by: Pierre G. Armand Assistant US Attorney

Defendant(s) by: Joseph Heaven pro se

HAROLD BAER, Jr., District Judge:

Do the parties consent to proceed before a United States Magistrate for all purposes, pursuant to 28 U.S.C. § 636(c) and Fed. R. Civ. P. 73?

Yes ___ No ☒

Pursuant to Rule 16(b) of the Federal Rules of Civil Procedure, after holding an initial pretrial conference on notice to all parties, it is hereby ordered that:

Except under circumstances agreed to by the Court:

1. This case is added to the February 09 Trailing Trial Calendar.
Jury ___ Non-Jury ___. Estimated number of trial days is 1. Counsel should not make any other commitments during this month. As a general rule, all cases will be tried within a reasonable time from the date of this pretrial conference based on the complexity of the case.

2. No additional parties may be joined after June 23, 2008.

New parties shall be bound by the deadlines included in this Pretrial Scheduling Order. If new parties are joined, the party joining them shall forward to them a copy of this Pretrial Scheduling Order and provide them with access to all previously taken discovery. Should this pose a seemingly insurmountable problem, call Chambers.

3. No additional causes of action or defenses may be asserted after June 23, 2008

4. **Discovery:** All discovery, except for expert discovery, shall be commenced in time to be completed by August 1, 2008. Disclosure of expert testimony, if any, will be made at least 45 days before the agreed to trial month. Evidence intended to contradict or rebut the subject matter of the expert testimony will be submitted within 21 calendar days after the

If applicable, decisions with respect to disclosure and discovery of electronically stored information, along with privilege issues related to that information, shall be provided to the Court within **10 days** of this Order.

October 1, 2008 5. **Motions:** No party may make a dispositive motion returnable after October 1, 2008. Either party may request (and will be given a date by Chambers) for oral argument. The above date is the date by which any motion shall be fully briefed (i.e., moving, opposition and reply papers) and a courtesy copy delivered to Chambers.

In deciding the last date to submit fully briefed motions and your agreed to trial month, keep in mind that the Court requires at least **60 days** to decide dispositive motions.

6. **Joint Pretrial Order:** A joint pretrial order shall, unless waived by the Court, be submitted by January 15, 2009. The pretrial order shall conform to the Court's Individual Practice and Rules. Counsel may inquire of Chambers with respect to the filing date(s) for requests to charge, proposed voir dire, and motions in limine, but in no event are they to be submitted less than five (5) business days (fully briefed) before the date set for trial.

7. The law clerk assigned to this case is Anna Gercas, to whom all correspondence should be directed.

8. Upon request to Chambers by either side, the Court will schedule and conduct a settlement conference and/or mediation. The Court will also, upon request, facilitate mediation under the Court Mediation Program or a settlement conference before your Magistrate Judge. In the case of a mediation to be conducted by the Court, all parties must bring their respective clients to the mediation. Keep in mind, closure, for the most part, is accomplished in direct proportion to how early in the litigation the mediation occurs. Any ADR procedure must occur within the framework of this order.

9. Whenever a case is resolved, the parties must submit an Order of Discontinuance, signed by all parties before the case will be removed from the trial calendar. When the parties settle within forty-eight hours of trial or the filing of a dispositive motion, they must notify the Court immediately of such settlement, and fax to the Court no less than thirty-six hours prior to their planned appearance, an Order of Discontinuance (copy attached), signed by all parties.



For Plaintiff

Pierre G. Armand, AUSA

For Defendant

Joseph Heaven
For Defendant


For Plaintiff

SO ORDERED.

DATED: New York, New York

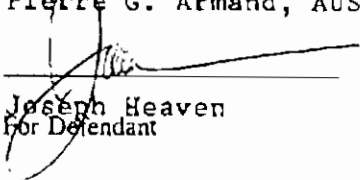
HAROLD BAER, JR.
United States District Judge

Rev. 2/07



For Plaintiff
Pierre G. Armand, AUSA

For Defendant



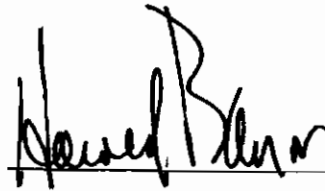
Joseph Heaven
for Defendant

For Plaintiff

SO ORDERED.

DATED: New York, New York

7/29/08



HAROLD BAER, JR.
United States District Judge

Rev. 2/07

TOTAL P.04